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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

Indiezone, Inc., a Delaware corporation, and
EoBuy, Limited an Irish private limited
company,

Plaintiffs,

vs.

Todd Rooke, Joe Rogness, Phil Hazel, Sam
Ashkar, Holly Oliver and U.S. Bank,
collectively the *RICO Defendants*;

Jingit LLC., Jingit Holdings LLC., Jingit
Financial, Services LLC., Music.Me, LLC.,
Tony Abena, John E. Fleming, Dan Frawley,
Dave Moorehouse II, Chris Ohlsen, Justin
James, Shannon Davis, Chris Karls in their
capacities as officers, agents and/or employees
of the Jingit LLC.,
*Defendants in Negligence, and Aiding/
Abetting*;

Wal-Mart, General Electric, Target, DOE(s)
and ROE(s) 1 through 10, *Defendants in
Negligence Secondary-Vicarious
Infringement*,

Defendants.

Case No. 3:13-cv-04280

**NOTICE OF MOTION AND MOTION OF
DEFENDANT U.S. BANK NATIONAL
ASSOCIATION TO (1) DISMISS
PLAINTIFF EOBUY, LIMITED AND
(2) STAY ALL REMAINING
PROCEEDINGS**

Hon. Yvonne Gonzalez Rogers

Date: February 18, 2014
Time: 2:00 p.m.
Place: Courtroom 5

NOTICE OF MOTION AND MOTION

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on February 18, 2014 at 2:00 p.m. in Courtroom 5 of the above-referenced Court, which is located at 1301 Clay Street, Oakland, California, before the Honorable Yvonne Gonzalez Rogers, Judge of the United States District Court for the District of Northern California, Defendant U.S. Bank National Association (“U.S. Bank”) will and hereby does move the Court for an order:

1. Dismissing eoBuy, Limited pursuant to Federal Rules of Civil Procedure 17(b)(2) and 12(b)(6), on the grounds that eoBuy, Limited is a defunct Irish corporation with no capacity to sue; and

2. Staying this action pursuant to 9 U.S.C. § 3 pending arbitration, on the grounds that all claims against all defendants in this action are wholly dependent on Indiezone’s arbitrable claims that the defendants Rooke and Rogness misappropriated trade secrets or other proprietary information of plaintiffs.

This motion is based on this Notice of Motion and Motion, the accompanying Memorandum of Points and Authorities, and all papers and pleadings on file in this Action.

MEMORANDUM OF POINTS AND AUTHORITIES

U.S. Bank hereby joins, and incorporates by this reference as if fully set forth herein, the Notice of Motion and Motion, Memorandum of Points and Authorities in Support Thereof, proposed order, and the arguments and supporting affidavits made thereto, filed by

(1) defendants Jingit, LLC, Jingit Holdings, LLC, Jingit Financial Services, LLC, Sam Ashkar, Phil Hazel, Holly Oliver, Shannon Davis, Justin James, Chris Ohlsen, Dan Frawley, Dave Moorehouse II, Tony Abena, Chris Karls, John E. Fleming, and Music.Me, LLC (“Stay Defendants”) and Todd Rooke and Joe Rogness, to dismiss eoBuy, Limited pursuant to Federal Rules of Civil Procedure 17(b)(2) and 12(b)(6), on the grounds that eoBuy Limited is a defunct Irish corporation with no capacity to sue; and

(2) the Stay Defendants to stay the remaining claims against the defendants in this action,

1 including U.S. Bank National Association, pending the outcome of the arbitration against
2 defendants Rooke and Rogness pursuant to 9 U.S.C. § 3, on the grounds that all claims against all
3 defendants in this action are wholly dependent on Indiezone's arbitrable claims that the
4 defendants Rooke and Rogness misappropriated trade secrets or other proprietary information of
5 plaintiffs.

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7 Dated: January 10, 2014

MORRISON & FOERSTER LLP

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9 By: /s/ James R. McGuire
James R. McGuire

10 Attorneys for Defendant
11 U.S. Bank National Association
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